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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. FSIS-2012-0039]

RIN [0583-AD05]

Uniform Compliance Date for Food Labeling Regulations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is establishing January 1, 2016, as the uniform compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2013, and December 31, 2014. FSIS periodically announces uniform compliance dates for new meat and poultry product labeling regulations to minimize the economic impact of label changes.

DATES: This rule is effective [INSERT DATE OF PUBLICATION]. Comments on this final rule must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION OF THIS RULE].

ADDRESSES: FSIS invites interested persons to submit relevant comments on this proposed rule. Comments may be submitted by either of the following methods:

•Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov/>. Follow the online instructions at that site for submitting comments.

•Mail, including CD-ROMs: Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, OPPD, Patriots Plaza 3, 1400 Independence Avenue SW, Mailstop 3782, 8-163A, Washington, DC 20250-3700.

•Hand- or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, OPPD, Patriots Plaza 3, 355 E. Street SW, 8-163A, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2012-0039. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov/>.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address

listed above between 8 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Division, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Telephone: 301-504-0879.

SUPPLEMENTARY INFORMATION:

Background

FSIS periodically issues regulations that require changes in the labeling of meat and poultry food products. Many meat and poultry establishments also produce non-meat and non-poultry food products that are subject to the jurisdiction of the Food and Drug Administration (FDA). FDA also periodically issues regulations that require changes in the labeling of products under its jurisdiction.

On December 14, 2004, FSIS issued a final rule that established January 1, 2008, as the uniform compliance date for new meat and poultry labeling regulations issued between January 1, 2005, and December 31, 2006. The 2004 final rule also provided that the Agency would set uniform compliance dates for new labeling regulations in 2-year increments and periodically issue final rules announcing

those dates. Consistent with that final rule, the Agency has published three final rules establishing the uniform compliance dates of January 1, 2010, January 1, 2012, and January 1, 2014 (72 FR 9651, 73 FR 75564, and 75 FR 71344).

The Final Rule

This final rule establishes January 1, 2016, as the uniform compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2013 and December 31, 2014, and is consistent with the previous final rules that established uniform compliance dates. In addition, FSIS' approach for establishing uniform compliance dates for new food labeling regulations is consistent with FDA's approach. FDA is also planning to publish a final rule establishing a new compliance date.

Two-year increments enhance the industry's ability to make orderly adjustments to new labeling requirements without unduly exposing consumers to outdated labels. With this approach, the meat and poultry industry is able to plan for use of label inventories and to develop new labeling materials that meet the requirements of all labeling regulations made within the two year period, thereby minimizing the economic impact of labeling changes.

This compliance approach also serves consumers'

interests because the cost of multiple short-term label revisions that would otherwise occur would likely be passed on to consumers in the form of higher prices.

FSIS encourages meat and poultry companies to comply with new labeling regulations as soon as it is feasible. If companies initiate voluntary label changes, they should consider incorporating any new requirements that have been published as final regulations.

The new uniform compliance date will apply only to final FSIS regulations that require changes in the labeling of meat and poultry products and that are published after January 1, 2013, and before December 31, 2014. For each final rule that requires changes in labeling, FSIS will specifically identify January 1, 2016, as the compliance date. All meat and poultry food products that are subject to labeling regulations promulgated between January 1, 2013 and December 31, 2014, will be required to comply with these regulations when introduced into commerce on or after January 1, 2016. If any food labeling regulation involves special circumstances that justify a compliance date other than January 1, 2016, the Agency will determine an appropriate compliance date and will publish that compliance date in the rulemaking.

In rulemaking that began with the May 4, 2004, proposed rule, FSIS provided notice and solicited comment on the concept of establishing uniform compliance dates for labeling requirements (69 FR 24539). In the March 5, 2007, final rule, FSIS noted that the Agency received only four comments in response to the proposal, all fully supportive of the policy to set uniform compliance dates. Therefore, in the March 5, 2007, final rule, FSIS determined that further rulemaking for the establishment of uniform compliance dates for labeling requirements is unnecessary (72 FR 9651). The Agency did not receive comments on the final rule. Consistent with its statement in 2007, FSIS finds at this time that further rulemaking on this matter is unnecessary. However, FSIS is providing an opportunity for comment on the uniform compliance date established in this final rule.

Executive Order 12988

This final rule has been reviewed under the Executive Order 12988, Civil Justice Reform. Under this final rule:

(1) All state and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no retroactive proceedings will be required before parties may

file suit in court challenging this rule.

Executive Orders 12866 and 13563 and the Regulatory
Flexibility Act

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order (E.O.) 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been reviewed under E.O. 12866. The Office of Management and Budget (OMB) has determined that it is a not significant regulatory action under section 3(f) of E.O. 12866 and, therefore, it has not been reviewed by OMB.

This rule does not have a significant economic impact on a substantial number of small entities; consequently, a regulatory flexibility analysis is not required (5 U.S.C. 601-612).

Paperwork Requirements

There are no paperwork or recordkeeping requirements associated with this policy under the Paperwork Reduction

Act of 1995 (44 U.S.C. 3501-3520).

E-Government Act Compliance

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, et seq.) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

USDA Nondiscrimination Statement

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Additional Public Notification

FSIS will announce this rule online through the FSIS
Web page located at
http://www.fsis.usda.gov/regulations_and_policies/Interim_and_Final_Rules/index.asp.

FSIS will also make copies of this Federal Register
publication available through the FSIS Constituent Update,
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information that could affect or would be of interest to
constituents and stakeholders. The Update is communicated
via Listserv, a free electronic mail subscription service
for industry, trade groups, consumer interest groups,
health professionals, and other individuals who have asked
to be included. The Update is also available on the FSIS
Web page. In addition, FSIS offers an electronic mail
subscription service which provides automatic and

customized access to selected food safety news and information. This service is available at [http://www.fsis.usda.gov/News & Events/Email Subscription/](http://www.fsis.usda.gov/News%20&%20Events/Email%20Subscription/).

Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC on: December 21, 2012.

Alfred V. Almanza,
Administrator.

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